



ROAD TO RELIEF



Supporting Federal Student Loan Borrowers
During the COVID-19 Crisis and Beyond

November 2020



**Student Loan
Borrower Assistance**
National Consumer Law Center

About the Authors

Julia Barnard is a researcher at the Center for Responsible Lending focusing on student loan debt and debt collection. She co-leads the student loan team, which advocates at the state and federal levels for cancellation, repayment reform, for-profit accountability, and other policy solutions to the student debt crisis. Prior to CRL, Julia was a research associate at the Center for Community Capital at the University of North Carolina, where she conducted research on student lending, housing policy, and financial services. She graduated from the University of Kansas and the University of North Carolina at Chapel Hill.

Joanna K. Darcus is an attorney at the National Consumer Law Center who focuses on litigation and student loan/higher education finance issues facing low-income people and communities of color, including private student loan debt collection defense, federal student aid policy, state regulation, and emerging financial products/services. Prior to joining NCLC, Joanna was a supervising attorney at Community Legal Services, Inc. of Philadelphia where she represented hundreds of low-income consumers sued by debt collectors or struggling with student loans. Before law school, she was a case manager/paralegal at Juvenile Law Center. Joanna graduated from Williams College and Duke University School of Law.

Ashley Harrington is the federal advocacy director and senior policy counsel at the Center for Responsible Lending (CRL), helping to shape fair lending and consumer protection reforms to address the racial wealth gap. Her portfolio includes a range of consumer lending issues, with a focus on student debt, particularly as it affects Black borrowers. Ashley has previously worked at UNCF (the United Negro College Fund) and in the Office of NY Governor Andrew Cuomo. She has provided testimony before the U.S. House of Representatives' Financial Services Committee and Small Business Committee. Ashley received her B.A. from UNC-Chapel Hill and her J.D. from New York University School of Law.

Robin Howarth joined CRL's Durham office in 2015 and currently serves as Senior Researcher and Interim Director of Research. Student lending is her research area with a focus on illustrating the importance of defending and expanding federal student borrower protections, providing wide-spread debt relief, and increasing state accountability for student loan servicers, for-profit colleges, and distance ed providers. Prior to joining CRL, Robin was a visiting professor in the Department of City and Regional Planning at UNC teaching graduate and undergraduate economic and community development courses. She began her career in banking on the West Coast in various corporate and commercial real estate lending roles. Robin has degrees from Stanford University (BA and MA) and UNC Chapel Hill (PhD).

Abby Shafroth is an attorney at the National Consumer Law Center, where she focuses on student loans and the intersection of criminal and consumer law. She has represented the interests of students and legal aid organizations on federal and state policy committees, and is an author of NCLC's Student Loan Law treatise. Prior to joining NCLC, worked in the civil rights practice at Cohen Milstein Sellers & Toll PLLC, worked at the Lawyers' Committee for Civil Rights Under Law, and served as a law clerk to the Honorable Judge Richard A. Paez of the Ninth Circuit Court of Appeals. Abby is a graduate of Harvard College and Harvard Law School.

Kyra Taylor is a staff attorney at the National Consumer Law Center, where she works on student loans and predatory school issues. Prior to joining NCLC, Kyra was a staff attorney at Harvard Law's Legal Services Center, where she worked in the Project on Predatory Student Lending. Kyra worked on behalf of consumers while she was a public interest fellow at the Washington DC plaintiffs' firm Tycko & Zavareei LLP and bridge fellow at Public Justice. Prior to becoming a lawyer, Kyra was an elementary school teacher in Baton Rouge, Louisiana, and East Harlem, New York. She is a graduate of the University of California, Berkeley School of Law and Temple University.

Persis Yu is a staff attorney and is the director of the National Consumer Law Center's (NCLC) Student Loan Borrower Assistance Project. She has authored several reports including: *Voices Of Despair: How Seizing The EITC Is Leaving Student Loan Borrowers Homeless And Hopeless During A Pandemic* and *Pushed into Poverty: How Student Loan Collections Threaten the Financial Security of Older*. Persis is a graduate of Seattle University School of Law, and holds a Masters of Social Work from the University of Washington and a Bachelor of Arts from Mount Holyoke College. She is an author of NCLC's Student Loan Law and a contributor to Fair Credit Reporting.



The COVID-19 recession is on track to last for years, and student loan borrowers need real relief to navigate it. If we are serious about helping communities of color and spurring economic recovery, student debt relief must be a part of the solution. The student loan system has been broken for too long; it is time to clear the books and provide borrowers with a path forward.



Executive Summary

Even before COVID-19, student loan borrowers struggled under the weight of more than \$1.6 trillion in debt. One in four borrowers was in default or serious delinquency, and many worried about their ability to make student loan payments while covering other basic needs. Because of decades of structural inequities and discrimination, student loans have burdened Black and Latino borrowers more than other groups, and now these borrowers of color are also among those disproportionately harmed by COVID-19. Millions of lives were already stymied by student loan debt before the public health crisis. Now, as borrowers struggle with COVID-19 and a looming recession, they are bracing for financial disaster.

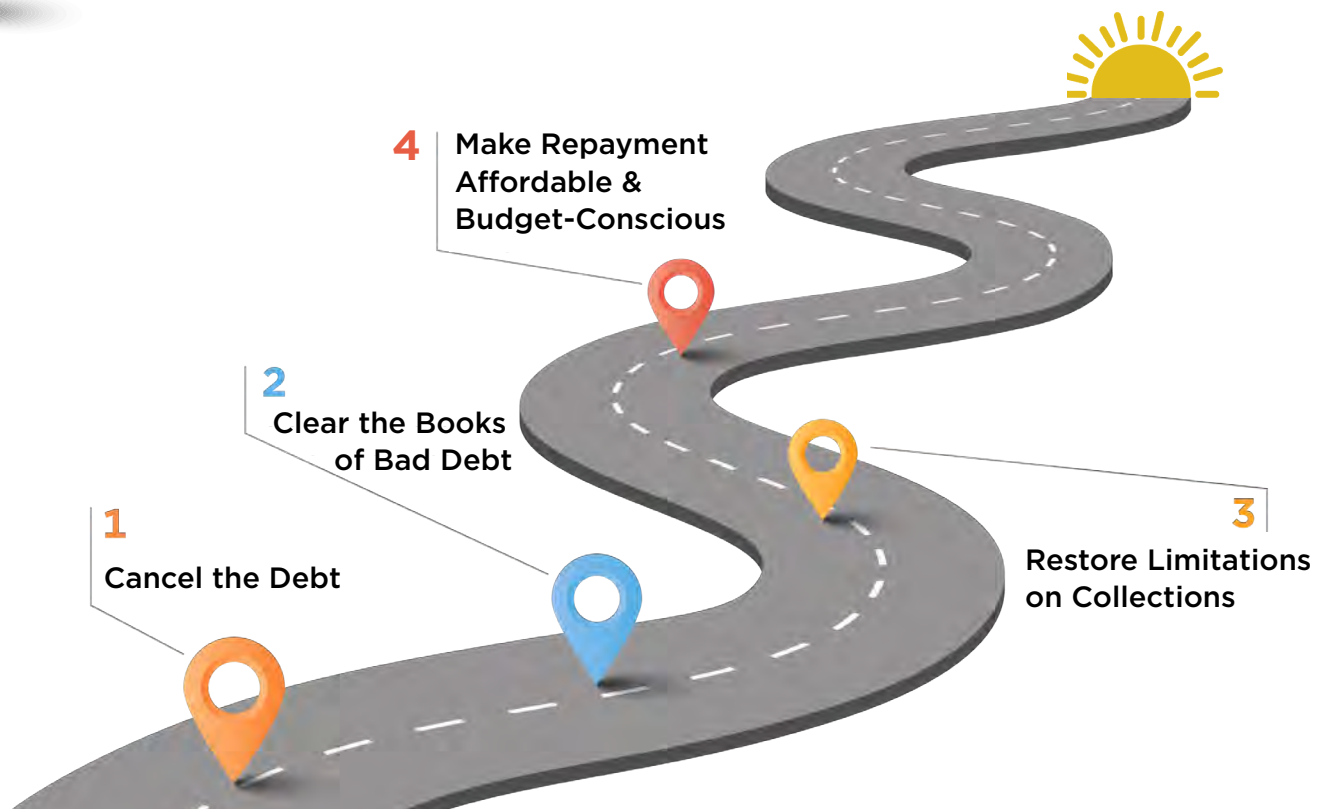
The COVID-19 recession is on track to last for years, and student loan borrowers need real relief to navigate it. If we are serious about helping communities of color and spurring economic recovery, student debt relief must be a part of the solution. The student loan system has been broken for too long; it is time to clear the books and provide borrowers with a path forward.

This report describes the roadmap the President, the U.S. Secretary of Education, or Congress can use to improve the federal student loan program and ensure that 44 million borrowers have one less burden to manage as this crisis continues. Taken together, these steps will ensure that all federal borrowers, accounting for over 90% of the outstanding student loan balances, receive substantial relief.¹

¹Additional action will be needed to address the private student loan market.



The Four Milestones



1. Across-the-board debt cancellation. All federal student loan borrowers (including PLUS loan borrowers and those with commercially- or institutionally-held loans) should have their balances reduced. This ensures that the benefits of cancellation reach all of the most vulnerable borrowers and will spur economic recovery.



2. Clearing the books of bad debts. After cancellation, the federal government should clear the books of debts currently held by borrowers that have been in repayment for longer than 15 years, debts that have been in default for three or more years, and debts held by borrowers who have been receiving some federal means-tested benefits for three or more years.



3. Restoring limitations on collections. Federal student loans should have common-sense consumer protection standards. Guardrails should include a statute of limitations, preventing the seizure of the Earned Income Tax Credit and Social Security benefits, limitations on the amount that can be seized, and limits on how long creditors can involuntarily collect. Student loans should also be dischargeable in bankruptcy.



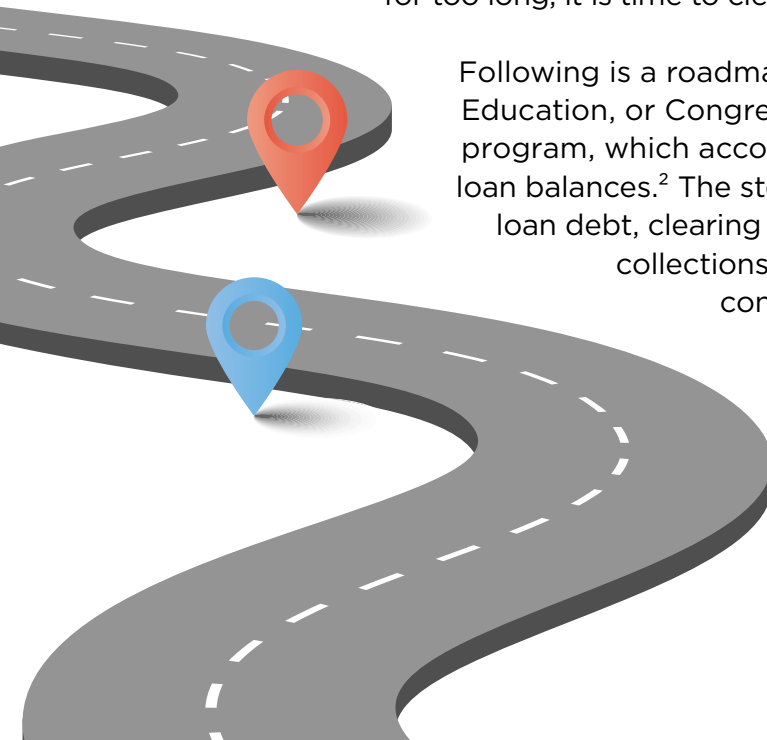
4. Making repayment truly affordable and budget-conscious. All borrowers on an income-driven repayment (IDR) plan or more than 30 days delinquent at the end of the COVID-19 pandemic should be auto-enrolled in a new IDR plan, the Affordable Budget-Conscious (ABC) repayment plan, that sets monthly payments based on no more than 8% of discretionary income above 250% of the poverty line.

Road to Relief

“We urge policymakers to act swiftly to create a debt-free college system that makes college affordable and accessible for all, not just the privileged. But the need for back-end reform cannot be ignored. This roadmap focuses on existing federal borrowers and illustrates the path out of the current federal student debt crisis, paving the way for a more equitable and efficient higher education funding system going forward.”

Even before the COVID-19 pandemic and recession, student loan borrowers struggled under the weight of more than \$1.6 trillion in debt. One in four borrowers was in default or serious delinquency, and many more struggle to make student loan payments while covering basic needs. Because of decades of structural inequities and discrimination, student loans have burdened Black and Latino borrowers more than other groups, and now these borrowers of color are also among those disproportionately harmed by the COVID-19 crisis. Millions of lives were already stymied by student loan debt before the crisis; now, as borrowers struggle with COVID-19 and a looming recession, they are bracing for financial disaster.

The COVID-19 recession is on track to last for years, and student loan borrowers need real relief to navigate it. If we are serious about helping communities of color and spurring economic recovery, student debt relief must be a part of the solution. The student loan system has been broken for too long; it is time to clear the books and provide borrowers a path forward.



Following is a roadmap that the President, the U.S. Secretary of Education, or Congress can use to improve the federal student loan program, which accounts for over 90% of the outstanding student loan balances.² The steps are across-the-board cancellation of student loan debt, clearing the books of bad debts, restoring limitations on collections, and making repayment truly affordable and budget-conscious. This roadmap focuses on existing borrowers and illustrates the path out of the current federal student debt crisis. It also paves the way for a more equitable and efficient higher education funding system going forward.

² Additional action will be needed to address the private student loan market.



Milestone 1: Cancel the Debt

Broad, universal debt cancellation should be provided for all federal student loan borrowers (including PLUS loan borrowers and those with commercially- or institutionally-held loans) so that the benefits of cancellation reach the most vulnerable borrowers. Previous relief packages, including the CARES Act, fell short of providing full relief for hard-working families across the country, especially for veterans, older adults, low- and moderate-income families, and communities of color who are getting hit hard by this pandemic and were already struggling most with student debt.³ Real relief in the form of cancellation is required.

Student debt exacerbates existing systemic inequities and racial disparities, preventing recovery from extending to already marginalized groups who are still reeling from the effects of the Great Recession even as they navigate the worst of the COVID-19 health crisis. Extensive research has established that Black borrowers and other borrowers of color tend to have more difficulty in student loan repayment than their white peers because of past and ongoing racial discrimination. The enduring legacy of structural racism results in persistent racial wealth gaps, higher loan amounts for the same degree, discrimination in the labor market, lower funding for institutions that serve higher numbers of students of color such as historically black colleges and universities (HBCUs) and community colleges, and a number of other structural disadvantages.⁴ These factors indicate that student debt cancellation will reduce a substantial burden that is felt most acutely by Black and Latino borrowers.

While payment and collections suspensions are helpful and important for millions of borrowers in the short term, these measures are the equivalent of kicking a very large, very expensive can down the road. At the end of the suspension period, borrowers will still owe the full amount of their debt, resulting in long-term consequences that will continue to depress wealth-building potential and result in many negative financial and health consequences. For instance, student debt can prevent borrowers from accessing credit, such as mortgages or small business credit, and can even delay family formation and retirement.⁵ There is also a growing body of evidence establishing the negative mental and physical health consequences of carrying debt.⁶ Even borrowers who are not required to make payments or who make \$0 payments still feel the burden of student debt. They may still watch their balances grow due to interest accrual, capitalization, and servicing issues, making their overall student debt burden larger as they navigate periods of economic hardship and as financial security becomes increasingly elusive.⁷

³ Calhoun, M. & Harrington, A. June 2020. "The next COVID-19 relief bill must include student debt cancellation." Brookings Institution. Available at <https://www.brookings.edu/research/the-next-covid-19-relief-bill-must-include-student-debt-cancellation/>.

⁴ Center for Responsible Lending, UnidosUS, the National Association for the Advancement of Colored People, the National Urban League, and the Leadership Conference Education Fund. September 2019. Quicksand: Borrowers of Color and the Student Debt Crisis. Available at <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-quicksand-student-debt-crisis-jul2019.pdf>.

⁵ National Association of Realtors Research Department and American Student Assistance. 2017. Student Loan Debt and Housing Report 2017: When Debt Holds You Back. Available at <https://www.nar.realtor/sites/default/files/documents/2017-student-loan-debt-and-housing-09-26-2017.pdf>.

⁶ Center for Responsible Lending, Leadership Conference on Civil and Human Rights, National Association for the Advancement of Colored People (NAACP), National Fair Housing Alliance, National Coalition for Asian Pacific American Community Development (National CAPACD), National Urban League, and UnidosUS. 2019, September 18. Comments to the Consumer Financial Protection Bureau NPRM on Debt Collection Practices. Available at <https://www.responsiblelending.org/research-publication/debt-collection-rule-should-not-perpetuate-abusive-practices-and-widen-racial>.

⁷ Sattelmeyer, S.; Denten, B.; Orenstein, S.; Remedios, J.; & Williams, R. 2020, May. "Borrowers Discuss the Challenges of Student Loan Repayment." The Pew Charitable Trusts. Available at <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/borrowers-discuss-the-challenges-of-student-loan-repayment>.

Legislative debt cancellation proposals have ranged from a minimum of \$10,000 for a subset of economically distressed borrowers to total cancellation.⁸ Legislators have also acknowledged that they are not the only ones who can deliver this relief. In September 2020, Senate Minority Leader Chuck Schumer, Senator Elizabeth Warren, and their colleagues introduced a resolution that called upon the next President to use existing executive authority to cancel \$50,000 of federal student loan debt for each borrower.⁹ More than 75% of borrowers would be debt-free with \$50,000 of cancellation, and almost 50% of borrowers would be rendered debt-free with even \$20,000 in cancellation (Table 1). In both scenarios, the household budgets of the remaining millions of borrowers in repayment would experience substantial relief. For instance, if \$20,000 were cancelled per borrower, we could eliminate the loan burden of an estimated 79% of federal borrowers who are currently in default, and reduce by an average of almost one-third the remaining debt burden of those in default whose balances are not zeroed out.¹⁰ Even borrowers who do not receive full cancellation will benefit. Based on repayment research by the Consumer Financial Protection Bureau (CFPB), even partial cancellation can bump borrowers with larger balances down to loan sizes they would be more likely to fully repay within a reasonable amount of time.¹¹

Debt cancellation would enable student loan borrowers to emerge from this crisis better able to fully participate in the new economy—freeing them up to purchase homes, to start small businesses, and to spend money in their communities as restaurants and other businesses reopen. Furthermore, research shows that debt cancellation has significant economic benefits, pouring billions of dollars back into the economy each year through increased spending and associated job creation.¹² This is an effective and efficient way to provide relief to communities that need it most and simultaneously jumpstart our struggling economy.

“Student debt exacerbates existing systemic inequities and racial disparities, preventing recovery from extending to already marginalized groups who are still reeling from the effects of the Great Recession even as they navigate the worst of the COVID-19 health crisis.”



⁸ Calhoun & Harrington 2020.

⁹ A resolution calling on the President of the United States to take executive action to broadly cancel Federal student loan debt, S.Res.711, 116th Cong., (2019-2020).

¹⁰ For methodology used in this estimate, see: Center for Responsible Lending et al. September 2019.

¹¹ Gibbs, C. August 2017. “CFPB Data Point: Student Loan Repayment.” Consumer Financial Protection Bureau Office of Research. Available at https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_student-loan-repayment.pdf.

¹² Fullwiler, S.; Kelton, S.; Ruetschlin, C.; & Steinbaum, M. 2018. The Macroeconomic Effects of Student Debt Cancellation. Levy Economics Institute. Available at http://www.levyinstitute.org/pubs/rpr_2_6.pdf.

**TABLE 1****Over 75% of Borrowers Would be Debt-Free with \$50,000 of Student Debt Cancellation¹³**

Outstanding Balance	Estimated Count of Borrowers	Percent of Borrowers	Cumulative Percent of Borrowers
Less than \$9,999	10,891,690	27.9%	27.9%
\$10,000 to \$19,999	7,783,041	20.0%	47.9%
\$20,000 to \$29,999	5,416,868	13.9%	61.8%
\$30,000 to \$39,999	3,472,972	8.9%	70.7%
\$40,000 to \$49,999	2,040,562	5.2%	75.9%
\$50,000 to \$74,999	3,834,135	9.8%	85.7%
\$75,000 or above	5,558,897	14.3%	100.0%
Total	38,998,165	100.0%	-

Source: CRL analysis of Survey of Household Economics and Decision-making (SHED), 2019. Board of Governors of the Federal Reserve System.



¹³ Analysis uses weighted population estimates (“weight_pop”) and excludes borrowers who used student loans to pay for someone else’s education (e.g., Parent PLUS borrowers) and respondents who refused to answer the question, left the question blank, or answered “don’t know.” The question (SL3) asked: “Thinking specifically about the money that you owe for your own education, please tell us the total amount that you currently owe on these loans.” Analysis is limited by poor data availability, numbers are an approximation.



Milestone 2: Clear the Books of Bad Debt

The student loan system is broken, and many loans will simply never be repaid. After providing broad-based cancellation, the federal government should clear the books of debts currently held by borrowers that have been in repayment for longer than 15 years, debts that have been in default for three or more years, and debts held by borrowers who have been receiving some federal means-tested benefits for three or more years. This one-time action will have an immediate and lasting impact. Many of these loans might otherwise never be fully repaid but would remain a burden to borrowers—and the economy—for years. They would also substantially increase the administrative and collection expenses associated with the entire federal student loan portfolio.¹⁴

Clearing debts that have been in repayment for 15 years or more will help borrowers who have had some success in repayment but continue to face balances that have ballooned with interest, and also borrowers who have experienced persistent difficulty. CFPB research using credit reporting data for a large sample of student loan borrowers shows that for the longest-studied cohort, the proportion of borrowers fully paying off their loans begins to flatten out after 8 years in repayment.¹⁵ At 14 years, 20% of borrowers have an outstanding balance on their loans, and additional years of repayment appear to yield little to nothing towards the achievement of full repayment.¹⁶ Millions of borrowers—including those who have consolidated underlying loans—see their balances grow despite regular payments. This occurs due to negative amortization, which happens when the payments borrowers make are too small to cover the interest that is accruing on their loans. In these cases, the total amount owed increases even if these borrowers continue to make regular monthly payments. This is especially true for Black borrowers. Due to a long history of structural racism and discrimination resulting in the racial wealth gap and income inequality, after 20 years in repayment, the typical Black borrower still owes 95% of the original cumulative balance.¹⁷ Further, as we discuss later, even managing repayment can be difficult as there are persistent problems with the currently available income-driven repayment plans.

“

“The student loan system is broken, and many loans will simply never be repaid.”



¹⁴ Letter from Kamala Harris, U.S. Senator, with 11 other U.S. Senators, to The Hon. Betsy DeVos, Secretary of Education and Dr. A. Wayne Johson, Chief Operating Officer of Federal Student Aid. (January 23, 2018). Available at [https://www.harris.senate.gov/imo/media/doc/180123%20-%20PCA%20Letter%20\(1\).pdf](https://www.harris.senate.gov/imo/media/doc/180123%20-%20PCA%20Letter%20(1).pdf).

¹⁵ Gibbs 2017.

¹⁶ Ibid.

¹⁷ Sullivan, L., Meschede, T., Shapiro, T., & Escobar, F. September 2019. “Stalling Dreams: How Student Debt is Disrupting Life Chances and Widening the Racial Wealth Gap.” Institute on Assets and Social Policy at Brandeis University. Available at <https://heller.brandeis.edu/iasp/pdfs/racial-wealth-equity/racial-wealth-gap/stallingdreams-how-student-debt-is-disrupting-lifechances.pdf>.



In addition to debts that have been in repayment for 15 years or more, the remaining balances of very low-income borrowers who—after persistent hardship—simply cannot afford to pay down their balances should be cancelled. While this likely applies to many subsets of borrowers, this should at least include borrowers in default for three years or more¹⁸ and borrowers who have been on means-tested public benefits such as Temporary Assistance for Needy Families (TANF) or the Supplemental Nutrition Assistance Program (SNAP) for three years or more.¹⁹ Based on the eligibility criteria of SNAP (maximum income at 130% of the federal poverty level)²⁰ and TANF (maximum income varies by state but is almost always below 100% of the federal poverty level),²¹ it is likely that borrowers in these groups are the same ones who would qualify for \$0 payments under the current income-driven repayment income thresholds (maximum income at 150% of the federal poverty level). However, as noted earlier, making \$0 payments does not relieve borrowers of the burdens created by student debt and reliance on these anti-poverty programs indicates that these individuals' investments in education did not bear economic fruit, often through no fault of their own. Relieving them of federal student loan debt is important to ensure that their efforts to better their lives do not instead destine them to a lifetime of debt. Pursuit of education in America should not be such a high stakes gamble. Further, providing desperately needed benefits to working families to help them afford food and basic necessities for several years on the one hand while also asking the same family to make unmanageable student debt payments on the other is not sensible nor effective public policy.

¹⁸ Delisle, J.; Cooper, P.; & Christensen, C. 2018, August. "Federal Student Loan Defaults: What Happens After Borrowers Default and Why." American Enterprise Institute. Available at <https://www.aei.org/research-products/report/federal-student-loan-defaults-what-happens-after-borrowers-default-and-why/>.

¹⁹ Delaney, A. 2017, December 6. "How Long Do People Stay on Public Benefits?" The Huffington Post. Available at https://www.huffpost.com/entry/public-benefits-safety-net_n_7470060. Although we don't know what percent of student borrowers meet the 3-year threshold for public assistance, the Census Bureau's longitudinal survey data establishes that 43% of the 1 in 5 individuals who participated in means-tested public assistance during the 2009-2012 period did so for more than 3 years. This is likely an upper bound as the research also states that higher educational attainment reduces public assistance participation.

²⁰ Center on Budget and Policy Priorities. September 2020. A Quick Guide to SNAP Eligibility and Benefits. Available at <https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits>.

²¹ Falk, G. 2014, July 22. "Temporary Assistance for Needy Families (TANF): Eligibility and Benefit Amounts in State TANF Cash Assistance Programs." Congressional Research Service. Available at <https://fas.org/sgp/crs/misc/R43634.pdf>.

Another benefit of cancelling debt for the neediest borrowers is that it will reduce the costs of collections on defaulted loans, which are not justified by the amount that is recovered.²² Most private industry lenders would have deemed many long-defaulted loans uncollectable years earlier, and they would have classified the debts as losses, and written them off of their books.²³

There are limited pathways for federal loan borrowers seeking to get out of, or “cure,” default.²⁴ In general, borrowers can pay their loan in full, rehabilitate the loan by making nine pre-determined payments over ten consecutive months, or consolidate the loan into a new Direct Consolidation Loan. Each of these pathways has advantages and disadvantages and the ability to use each option depends on the individual borrower’s circumstances. Almost half of borrowers who enter default remain in default status for more than three years and many borrowers who manage to cure their default end up back in the same circumstance a few years later.²⁵

The consequences for defaulting are devastating and wide-ranging.²⁶ For instance, defaulting on a federal student loan can result in negative credit reporting, loss of eligibility for federal protections, wage garnishment, tax refund and federal benefit withholding, and loss of eligibility for federal aid programs. Borrowers who defaulted on a student loan and then cured the default may nonetheless face challenges when attempting to access federal homeownership and small business support.²⁷

The perils of default are felt most acutely for Black borrowers as they are particularly at risk of default and also more likely to lack access to affordable credit products even before the additional damage of student loan default to their credit.²⁸ Black borrowers are also more likely to consolidate their loans to get out of default.²⁹ While consolidation is a much quicker process than rehabilitation, the default notation and repayment history both remain on the borrower’s credit for years. On the other hand, credit reports for borrowers who successfully rehabilitate their loans will only retain the negative repayment history. Black borrowers are also more likely to rely on

“

“The perils of default are felt most acutely for Black borrowers as they are particularly at risk of default and also more likely to lack access to affordable credit products even before the additional damage of student loan default to their credit.”



²² Frotman, S. October 2016. “Annual Report of the CFPB Ombudsman: Transitioning from Default to an Income-Driven Repayment System.” Consumer Financial Protection Bureau. Available at https://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf.

²³ See e.g., FDIC, Risk Management Manual of Examination Policies, Sec. 3-7 (last updated 08/27/2020). Available at <https://www.fdic.gov/regulations/safety/manual/section3-7.pdf>.

²⁴ U.S. Department of Education Office of Federal Student Aid. 2020. Loan Rehabilitation Webpage. Available at <https://studentaid.gov/manage-loans/default/get-out>.

²⁵ Delisle et al. 2018.

²⁶ Pew Project on Student Borrower Success. April 2020. Student Loan Default Has Serious Financial Consequences. Available at https://www.pewtrusts.org/-/media/assets/2020/04/studentloandefaultseriousfinancialconsequences_.pdf.

²⁷ Center for Responsible Lending. Forthcoming. Data Point: SBA Student Loan Restriction Disproportionately Impacts Black and Latino Business Owners. Available at <https://www.responsiblelending.org/issues/student-loans>.

²⁸ Scott-Clayton, J. 2018, June 21. “What accounts for gaps in student loan default, and what happens after.” Brookings Institution. Available at https://www.brookings.edu/wp-content/uploads/2018/06/Report_Final.pdf.

²⁹ Ibid.

Federal Housing Administration (FHA) loans to access homeownership opportunities due to being shut out of the conventional mortgage market. However, student loan default can prevent them from accessing this credit option meaning many borrowers will be denied homeownership altogether. Thus, the impact of this unaffordable and inequitable system is further compounded.

Many of the borrowers described previously will likely be served by the cancellation provisions of milestone one of this roadmap. Higher balances are often associated with higher incomes and the majority of borrowers with loans above \$50,000 do not default.³⁰ If \$50,000 is forgiven for each borrower, only 5% of borrowers in default will still owe a balance.³¹ Even forgiveness of just \$20,000 will leave only 20% of defaulters owing a balance.³² Less is known about the number of borrowers on means-tested benefits for three years who might find themselves still in debt after broad-based cancellation, but it is likely a small number as well.³³ Rather than continue to service and account for loans that are unlikely to be fully repaid, these loans should be immediately cancelled so that these borrowers can move on with their lives and participate more fully in the economy.



³⁰ Even so, many still struggle to make a dent in their loans. Looney, A. & Yannelis, C. 2018, February 16. "Most students with large loan balances aren't defaulting. They just aren't reducing their debt." Brookings Institution. Available at <https://www.brookings.edu/research/most-students-with-large-loan-balances-arent-defaulting-they-just-arent-reducing-their-debt/>.

³¹ Looney & Yannelis 2018.

³² Ibid.

³³ Huelsman, M. 2019. "Debt to Society: The Case for Bold, Equitable Student Loan Cancellation and Reform." Demos. Available at <https://www.demos.org/sites/default/files/2019-06/Debt%20to%20Society.pdf>.



Milestone 3: Restore Limitations on Collections

Borrowers who took out loans to access an education should not have those debts follow them to the grave. Federal student loans should have common-sense consumer protection guardrails like those for other types of debt products.³⁴ These guardrails should:



- Limit how long a debtor can be pursued for payments to three years (a statute of limitations);
- Prevent the seizure of benefits from vital safety net programs such as the Earned Income Tax Credit and Social Security;
- Ensure that the amount seized is no more than the amount that would have been paid under an IDR plan;
- Limit how long creditors can involuntarily collect; and
- Allow student loans to be discharged in bankruptcy.

Many of these protections once existed for student loan borrowers, but Congress has steadily eroded these protections. For example, federal student loans used to have a six-year statute of limitations and involuntary collection was barred after 10 years.³⁵ Over time, Congress has also made it more difficult, and for some borrowers impossible, to discharge student loans in bankruptcy, unlike almost all other forms of consumer debt.³⁶

Statutes of limitations are laws that limit the length of time available for bringing a lawsuit in court. They are designed to protect “defendants and the courts from having to deal with cases in which the search for truth may be seriously impaired by the loss of evidence, whether by death or disappearance of witnesses, fading memories, disappearance of documents, or otherwise.”³⁷ The Supreme Court has repeatedly emphasized their importance, stating, for example that “Statutes of limitations are vital to the welfare of society and are favored in the law. They are found and

“

“Borrowers who took out a loan to access an education should not have those debts follow them to the grave.”



³⁴ Center for Responsible Lending. September 2019. Testimony of Ashley C. Harrington Before the United States House Committee on Financial Services: A \$1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable. Available at <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-harringtona-20190910.pdf>.

³⁵ National Consumer Law Center, Student Loan Law § 8.5.3.1 (6th ed. 2019), updated at <https://www.nclc.org/>.

³⁶ National Consumer Law Center [2017]. Testimony of John Rao before House Judiciary Subcommittee on Antitrust, Commercial and Administrative Law. Available at <https://www.nclc.org/images/pdf/bankruptcy/testimony-john-rao-bankruptcy-oversight-hearing.pdf>.

³⁷ United States v. Kubrick, 444 U.S. 111, 117 (1979) (citation omitted).



approved in all systems of enlightened jurisprudence.”³⁸ Ideally, the statute of limitations also extinguishes the debt.³⁹ Three years is widely recognized as an appropriate statute of limitations for consumer debts.⁴⁰

Restoring a time limit is particularly important because the government can utilize involuntary collection methods (e.g., administrative wage garnishment, tax refund offset, federal benefit offset) without a court order. The removal of the Debt Collection Improvement Act’s time limit on involuntary collection means that low-income borrowers can now have their tax refunds seized and wages garnished indefinitely, preventing them from achieving any form of economic stability or mobility. Given that Black and Latino borrowers experience student loan default at twice the rate of white borrowers, these involuntary collection tools disproportionately siphon money away from communities of color.⁴¹ Without this protection, older student loan borrowers in default regularly have their Social Security benefits seized⁴² to pay their federal student loan debts.⁴³

There is no reason that student loan borrowers should be singled out for lifelong liability. Implementing these guardrails for federal student loan borrowers would simply provide the standard consumer protections that most other consumer debtors already have.

³⁸ Wood v. Carpenter, 101 U.S. 135, 139 (1879).

³⁹ For a full discussion of statute of limitations reform see, National Consumer Law Center. December 2015. April Kuehnhoff and Margot Saunders, Model Statute of Limitations Reform Act. Available at https://www.nclc.org/images/pdf/debt_collection/statute-of-limitations-reform-act.pdf.

⁴⁰ See e.g., Bair, S. 2020, October 12. “Why federal student loans need new protections on debt collection.” Yahoo Finance. Available at <https://money.yahoo.com/why-federal-student-loans-need-new-protections-on-debt-collection-191652731.html.threaten-fin-sec.pdf>.

⁴¹ National Consumer Law Center. July 2020. Voices of Despair – How Seizing the EITC is Leaving Student Loan Borrowers Homeless and Hopeless During a Pandemic. Available at https://www.nclc.org/images/pdf/student_loans/voices-of-despair-seizing-eitc-in-pandemic.pdf.

⁴² Miller, B. 2017, October 16. “New Federal Data Show a Student Loan Crisis for African American Borrowers.” Center for American Progress. Available at <https://www.americanprogress.org/issues/education-postsecondary/news/2017/10/16/440711/new-federal-data-show-student-loan-crisis-african-american-borrowers/>.

⁴³ Yu, P. May 2017. “Pushed into Poverty: How Student Loan Collections Threaten the Financial Security of Older Americans.” National Consumer Law Center. Available at https://www.nclc.org/images/pdf/student_loans/student-loan-collections-threaten-fin-sec.pdf.



Milestone 4: Make Repayment Truly Affordable and Budget-Conscious

Income-driven repayment (IDR) plans are meant to help borrowers successfully navigate repayment by keeping payments affordable. However, the burdensome processes to get and stay enrolled in IDR, servicer error, and the sheer complexity of the system often make repayment anything but easy. All borrowers on an IDR plan at the end of the COVID-19 pandemic should be auto-enrolled in a new IDR plan, the Affordable Budget-Conscious (ABC) plan, that sets monthly payments to no more than 8% of discretionary income above 250% of the poverty line.⁴⁴ In addition, all borrowers who are more than 30 days delinquent, including those in default, should be automatically enrolled in this plan. This plan should provide tax-free loan forgiveness and discharge of debt after the borrower has made income-based payments for 15 years (including any payments made on any IDR plan prior to the pandemic). Moving forward, all existing IDR plans should be replaced with the ABC repayment plan.

Currently, there are a variety of IDR plans with different structures and eligibility requirements. Monthly payments can be capped anywhere between 10% to 20% of discretionary income depending on the plan.⁴⁵ Unneeded complexity makes these programs notoriously difficult to navigate for borrowers and the application process requires borrowers (and servicers) to understand and evaluate the many IDR options, submit documentation, and re-enroll on an annual basis.⁴⁶ On top of all that, there is also ample documentation indicating that servicers have consistently engaged in a variety of abusive practices and that servicers make many errors that have long-term negative consequences for borrowers.⁴⁷ Many borrowers are unable to meet annual deadlines or simply forego the very plans that could help them repay their loans successfully. And even if a borrower finally makes it to the end of the loan term (20 to 25 years), the financial struggle does not necessarily end there because the IRS treats any unpaid debt as taxable income.⁴⁸



“Many borrowers have been in repayment for several years with no end in sight. Now, as Americans face weakened job markets and destabilized futures due to the public health and economic crises, intervention by Congress and the Administration is even more critical.”



⁴⁴ Center for Responsible Lending et al. September 2019.

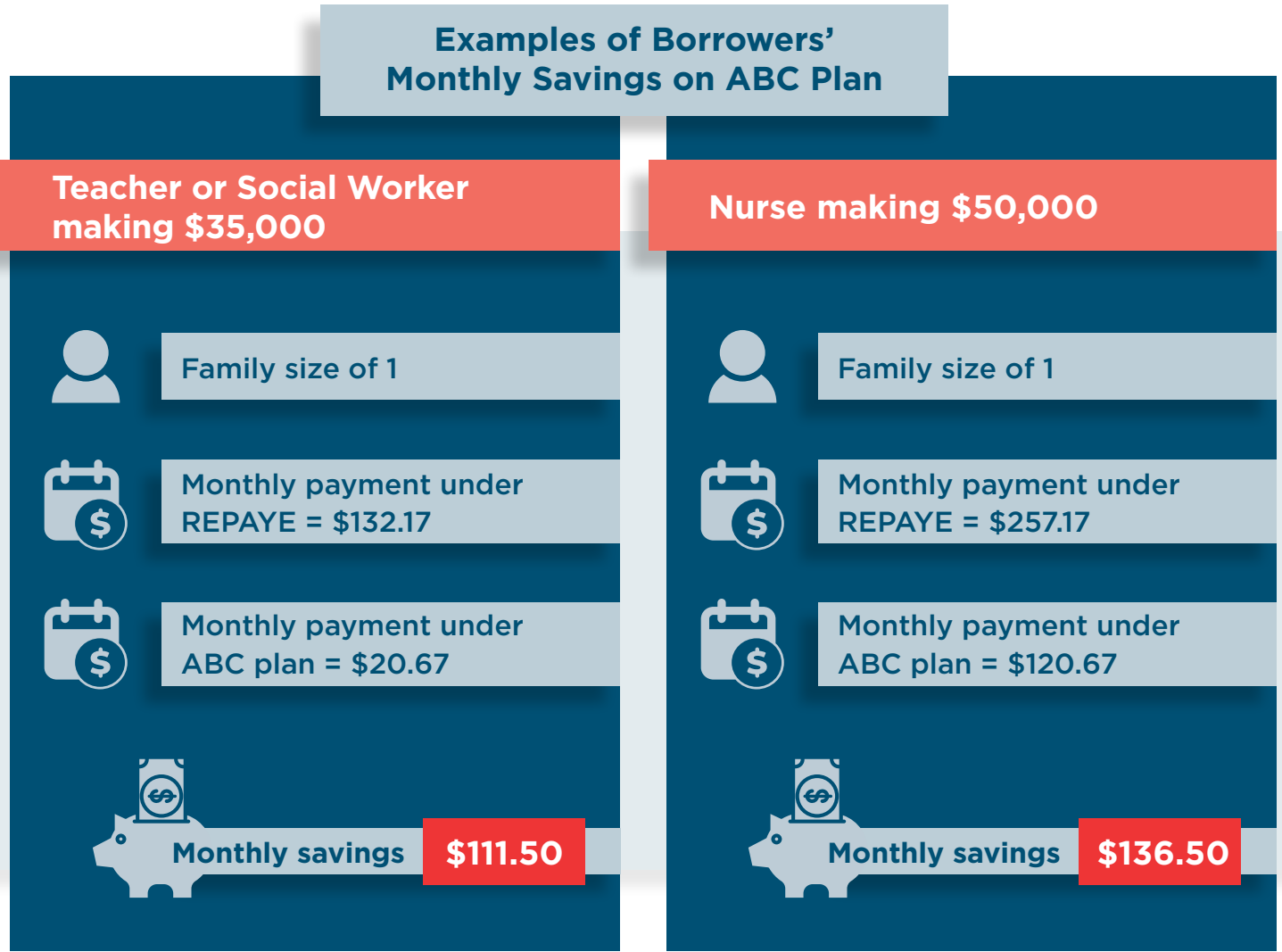
⁴⁵ United States Office of Federal Student Aid. October 2020. Repayment Plans. Available at <https://studentaid.gov/manage-loans/repayment/plans>.

⁴⁶ National Consumer Law Center. September 2019. Testimony of Persis SiChing Yu Before the United States House Committee on Financial Services: A \$1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable. Available at <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-yup-20190910.pdf>.

⁴⁷ Consumer Financial Protection Bureau. 2017, April 25. CFPB Monthly Snapshot Spotlights Student Loan Complaints. Available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-monthly-snapshot-spotlights-student-loan-complaints/>.

⁴⁸ 26 U.S.C. § 108(f).

The ABC repayment plan will drastically simplify repayment for millions of borrowers. Under this plan, borrowers with modest starting salaries and modest earnings trajectories will save thousands of dollars over the life of their loans compared to current income-driven repayment plans such as REPAYE (see chart).⁴⁹ Research by the Federal Reserve Bank of shows that one in four 2019 college graduates has a starting salary of \$32,000 or less, and 50% make \$45,000 or less.⁵⁰ Given a typical beginning student debt load of \$34,000, moderate-income student borrowers would experience substantial relief over the life of the ABC plan compared to the current REPAYE plan (Table 2). Reforming repayment now is critical, as many lower-earning graduates have been impacted substantially by the COVID-19 pandemic, either because they are front-line workers (e.g., education, social service, criminal justice degree recipients with starting salaries clustering around \$35,000; medical treatment/life science around \$40,000; nursing around \$50,000), or because they work in hard-hit industries.



⁴⁹ Unless their earnings improve substantially, those with starting salaries of \$23,000 would pay little to nothing during the life of their loans. This reflects the protections of this plan for those low-income borrowers experiencing substantial mismatches between loan burden and earnings and recognizing that day-to-day necessities would consume their entire paycheck.

⁵⁰ Federal Reserve Bank of New York. 2020, July 17. The Labor Market for Recent College Grads. Available at https://www.newyorkfed.org/research/college-labor-market/college-labor-market_compare-majors.html.



TABLE 2 Increased Savings for Single Borrower with \$34,000 Starting Balance Under ABC Plan Compared to REPAYE

Individual Starting Adjusted Gross Income	Savings Under ABC Plan ⁵¹
\$15,000	\$1,507
\$20,000	\$10,567
\$25,000	\$20,738
\$30,000	\$27,279
\$35,000	\$28,494
\$40,000	\$21,154
\$45,000	\$14,195
\$50,000	\$7,448
\$55,000	\$839

Source: Center for Responsible Lending, UnidosUS, the National Association for the Advancement of Colored People, the National Urban League, and the Leadership Conference Education Fund. September 2019. Quicksand: Borrowers of Color and the Student Debt Crisis.

All federal student loans should be eligible for this repayment plan. The ABC Plan would not only leave student loan borrowers better off and prevent millions of defaults, but it would also improve our economy by freeing up income that will be reinvested in borrowers' communities. Many borrowers have been in repayment for several years with no end in sight. Now, as Americans face weakened job markets and destabilized futures due to the public health and economic crises, intervention by Congress and the Administration is even more critical. The federal government must ensure that repayment options are simple, affordable, and automatic for borrowers.

⁵¹ Savings are represented over the life of the loan and are the difference between the present value of total payments of the ABC plan compared to the present value of total payments of the REPAYE plan. These calculations are derived from Urban Institute's Charting Student Loan Repayment calculator. Accessed May 22, 2019. Available at <https://apps.urban.org/features/student-loan-repayment/>.



Conclusion: A Roadmap to Relief

Federal student debt is a \$1.6 trillion drain on individuals, their families, and the economy. Our higher education financing system is broken and inequitable and it is past time to reform it. Public investment, not reliance on loans, should once again be the foundation of how we pay for higher education. We urge lawmakers to act swiftly to create a debt-free college system that makes college affordable and accessible for all, not just the privileged. This should include drastically increasing the Pell Grant and providing full support for Historically Black Colleges and Universities (HBCUs) and other Minority Serving institutions (MSIs). But the need for back-end reform cannot be ignored.

This report addresses the longstanding inequities of our student loan system by providing widespread cancellation to all borrowers and then clearing any remaining bad debt from the system. However, just as importantly, we must fix the system for the future. The roadmap does that through the Affordable Budget-Conscious (ABC) repayment plan. The ABC plan will ensure that, until policymakers are able to ensure that students no longer have to shoulder the cost of higher education through debt, student loan borrowers have an affordable repayment option. The roadmap also provides for critical guardrails on collection to ensure that unaffordable debt doesn't follow borrowers to the grave.

Millions of families are struggling financially, and it is within the power of the President, the U.S. Secretary of Education, and Congress to implement all of the provisions in this roadmap to relieve some of the pressure these families are facing. These steps will not only lift the burden on individual borrowers, but will also jumpstart the entire economy at a time when stimulus is badly needed. Now is the time, as our nation navigates the public health crisis, an economic recession, and an overdue reckoning with systemic racism, to take concrete steps to address the significant hardship caused by student debt.





**Student Loan
Borrower Assistance**
National Consumer Law Center



CRL
Center for Responsible Lending